

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.NO.234 OF 2015

JUDGMENT:

This appeal is preferred by the claimants aggrieved by the order, dated 02.12.2014 in O.P.No.274 of 2013 passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad, (for brevity 'the Tribunal').

2. Brief facts are that on 22.09.2012 Are Pratap (hereinafter referred to as 'the deceased') along with his sister (Gupta Swaroopa), who is wife of one Gupta Mallesh went to Airport in Maruthi Omni Van bearing No.AP 25 TV 0510 to receive Gupta Mallesh. When they were returning to their village Bheemgal at about 5.30 AM and when they reached at Kalakal village of Toorpan mandal, the driver of the said Van drove the vehicle in a rash and negligent manner and dashed to an unknown vehicle. As a result of which, the occupants of the van i.e., deceased, Konduka Narsu Bai and driver of the van namely, Ahmed died on the spot. Gupta Swaroopa received multiple and grievous injuries and succumbed to injuries on 23.09.2012. Gupta Mallesh sustained grievous injuries and his daughter Chamundeswari also received multiple injuries. Thus, the claimants filed the claim petition claiming compensation of Rs.15,00,000/-.

3. To substantiate the claim, on behalf of the claimants, P.Ws.1 and 2 were examined and Exs.A1 to A7 were marked. On behalf of the Insurance Company, no evidence was adduced except marking Ex.B1, which is copy of Insurance Policy.

4. The Tribunal on consideration of entire oral and documentary evidence available on record, awarded compensation of Rs.13,77,000/- with interest at 7.5% p.a. from the date of petition till date of realization. Challenging the same, the claimants preferred this appeal seeking enhancement of compensation.

5. As seen from the record, it is evident that the Tribunal considered Rs.8,000/- per month as the income of the deceased and after deducting one fourth of the income of the deceased towards personal expenses, it arrived the annual loss of the income of the deceased at Rs.72,000/-. By applying multiplier '16', the Tribunal arrived at Rs.11,52,000/-. Thereafter, the 1st petitioner was granted Rs.1,00,000/- towards loss of consortium and petitioners 2 and 3 were granted Rs.1,00,000/- towards loss of love and affection and the Tribunal also granted Rs.25,000/- towards funeral expenses. In all, the Tribunal granted Rs.13,77,000/- as compensation.

6. Since the age of the deceased is 34, multiplier '16' is made applicable. To this extent, the order of the Tribunal is correct. As per decision reported in **NATIONAL INSURANCE COMPANY LTD., V PRANAY SETHI AND OTHERS**¹, 40% future prospects have to be awarded. Accordingly, this Court awards 40% towards future prospects i.e., Rs.28,800/- (Rs.72,000/- X 40%). In total, the claimants are entitled to Rs.1,00,800/- (i.e. Rs.72,000/- + Rs.28,800/-). If this amount is multiplied by the appropriate multiplier '16', it comes to Rs.16,12,800/- (Rs.1,00,800/- X 16). The Tribunal has awarded Rs.1,00,000/- towards loss of consortium to the wife of the deceased and Rs.25,000/-

¹ AIR 2017 SC 5157

towards funeral expenses. i.e., total Rs.1,25,000/-. The same is reduced to Rs.70,000/- by following the *Pranay Sethi* case (cited supra). The amount of Rs.1,00,000/- granted by the Tribunal to the minor children towards love and affection needs no interference as they are entitled @ Rs.50,000/- each and 4th claimant, mother of the deceased is entitled to Rs.40,000/- as per decision reported in **MAGMA GENERAL INSURANCE CO. LTD., V MANU RAM ALIAS CHUHRU RAM** ²,

7. In all, the claimants are entitled to compensation, which is shown as under:

1.Loss of Dependency	Rs.16,12,800/-
2.Conventional Charges	Rs. 70,000/-
3. 2 Minor children (Rs.50,000/-X 2)	Rs. 1,00,000/-
4. Mother	Rs. 40,000/-

Total	Rs.18,22,800/-

8. Accordingly, the appeal is allowed with costs enhancing compensation from Rs.13,77,000/- to Rs.18,22,800/- with interest at 7.5% p.a., from the date of petition till the date of realization. The appellants-claimants are directed to pay deficit Court fee on the enhanced compensation amount before the Tribunal. Miscellaneous petitions, if any pending in this appeal shall stand closed.

T.AMARNATH GOUD, J

DATED: 17-09-2019

Hsd

² LAWSUIT (SC) 94

